IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

OP.No. 11370 of 2002(C)

PETITIONER:

A.C.GEORGE(MANAGING PARTNER, AC TRAVELS)
ANATHURUTHIL HOUSE, KANAYANNOOR TALUK,
NADAMA VILLAGE, EROOR.

BY ADV. SRI.THOMAS K.C.KUNNATHOOR

RESPONDENTS:
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1. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
PALARIVATTOM, KOCHI-25.

2. THE LABOUR SECRETARY,
MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
THIRUVANANTHAPURAM.

3. THE DEPUTY TAHSILDAR (RR),
KANAYANNUR TALUK, ERNAKULAM.

4. C.K.SAJEEV, CHATHANVELIL,
IRUMPANAM P.O., THRIPUNITHURA.

5. P.K.SHANMUGHAN, PALLIMALAYIL,
THIRUVANKULAM P.O., TRIPUNITHURA, ERNAKULAM.

6. FRANCIS MATHEW, SRANMPICKAL HOUSE,
THEKKETH KAVALA P.O., PONKUNNAM,
KOTTAYAM DISTRICT.

7. P.A.JOHNSON,
PADINJAREPALATHINKAL, SOUTH PARAVOOR,
ERNAKULAM DISTRICT.

8. M.N.SURESH BABU, MANDANATH HOUSE,
TRIPUNITHURA P.O., ERNAKULAM DISTRICT.

9. SHYJU, S/O.UNNI, PALATHUPARAMBIL HOUSE,
NADAMA VILLAGE, KANAYANNOOR TALUK, EROOR,
ERNAKULAM DISTRICT.

R1 BY ADV. SRI.P.RAMAKRISHNAN
R2 & R3 BY GOVERNMENT PLEADER SMT. SMITHA
R4,R5,R7 & R9 BY ADV. SRI.P.C.HARIDAS

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 15/02/2007 THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP 19870 OF 2002 IN O0P 11370 OF 2002

DISMISSED

15.2.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE PARTNERSHIP DEED DATED 25.2.1993

EXT.P2 TRUE COPY OF THE AGREEMENT DATED 6.12.1998

EXT.P3 TRUE COPY OF THE FINAL DETERMINATION ORDER DATED 31.3.2001

EXT.P4 TRUE COPY OF THE APPEAL DATED 14.6.2001

EXT.P5(a) TRUE COPY OF THE AFFIDAVIT FILED BY THE 4TH RESPONDENT DATED 10.11.2001

EXT.P5(b) TRUE COPY OF THE AFFIDAVIT FILED BY THE 5TH RESPONDENT DATED NIL.

EXT.P5(c) TRUE COPY OF THE AFFIDAVIT FILED BY THE 6TH RESPONDENT.

EXT.P5(d) TRUE COPY OF THE AFFIDAVIT FILED BY THE 7TH RESPONDENT.

EXT.P5(e) TRUE COPY OF THE AFFIDAVIT FILED BY THE 8TH RESPONDENT.

EXT.P5(f) TRUE COPY OF THE AFFIDAVIT FILED BY THE 9TH RESPONDENT.

EXT.P6 TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 28.11.95

EXT.P7 TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 21.3.1997

EXT.P8 TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 27.3.2002

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 11370 OF 2002

Dated this the 15th day of February, 2007

JUDGMENT

Petitioner is challenging demand of motor transport workers welfare fund contribution for respondents 4 to 9 for the years 1994 to 2000. According to the petitioner bus was run on partnership by petitioner along with his brothers and respondents 4 to 9 were employed on casual basis, that is only when partners were not able to attend to work. Counsel for respondents 4 to 9 has confirmed the same. If respondents 4 to 9 are not eligible workers which they themselves are confirming, I do not think the demand against the petitioner is justified. However, if respondents 4 to 9 are registered workers, then they cannot opt out of the benefits under the Act. Even if they are registered subsequently, then also I see no reason for recovering the dues for the earlier period, that is for the period when they were not members of the Fund. In the circumstances, O.P. is disposed of directing the first respondent to reconsider the final determination orders for the above years after verifying the dates of registration of

respondents 4 to 9 and if they were not registered during the above period, he will cancel the demand raised against the petitioner. Petitioner will produce a copy of this judgment for compliance. Revised orders as above will be issued within one month from the date of production of a copy of this judgment by the petitioner.

(C.N.RAMACHANDRAN NAIR)
Judge